

In Re: Sentinel Trust Company)
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) Case No. 4781
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Through this filing, the Sentinel Trust Receiver responds to the motion filed by numerous parties, but whom are commonly referred to, in the aggregate, as Chancellor Health Partners (“Chancellor”), seeking intervention into this action and an order from the Court instructing the Receiver to transfer property and records to a successor trustee.

As has been the response to other efforts to intervene, the Receiver respectfully opposes the effort of Chancellor to intervene in these proceedings. The Receiver is protecting the post-May 18th deposits being made by bond issuers and discharging trustee and registrar duties and would do so in relation to such deposits from, and duties owed to, Chancellor. The Receiver is ready to pursue the selection and appointment of replacement trustees/paying agents for Chancellor bond issues. These are the interests which Chancellor seeks to intervene to protect. Because the Receiver is already acting to address and protect those interests, intervention is not needed.

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b) Response to Motion to Transfer Property and Records to Successor Trustee

In its motion, Chancellor announces that it has named the Bank of Oklahoma as the replacement trustee on seven bond issues -- while not expressed in their motion, it is assumed that they seek approval of that unilateral action by the Court. Interestingly, Chancellor requests transfer of property held by the Sentinel Trust receivership related to those seven bond issues, but then concede that the only funds held by the receivership estate relating to those issues is located in the SunTrust Pooled Account, which Chancellor further concedes is not presently at a state to where any distributions can be made. Chancellor also requests transfer to the Bank of Oklahoma of a long list of matters including all remedies, rights, claims, causes of action, titles, interests and liens held by Sentinel Trust as predecessor trustee and registrar of the Chancellor bond issues.

The Receiver respectfully submits that, given the circumstances of the Sentinel Trust receivership, it must object to Chancellor's motion and requested relief. Since shortly after the June 18, 2004 Notice of Liquidation, the Receiver has been preparing to discharge the responsibilities under T.C.A. § 45-2-1504(c) of terminating and transitioning all of the Sentinel Trust fiduciary accounts to the fullest extent possible. The Receiver has been prepared to distribute bid packet information to the financial institution/trust department industry¹ and is looking forward to reviewing bids and presenting, first to the Commissioner and then to this

¹ The Receiver will wait until after the August 9, 2004 hearing to distribute substantive information concerning the bid packet because of the possible amendments that could occur to the Court's July 16, 2004 orders (E.O.D. 7/19/04). If there are amendments to those orders, the substance of the amendments would need to be set forth in the information that will be sent to interested bidders.

Court, the recommendations for successor trustees and/or paying agents to the Sentinel Trust bond issues.

For this bid process to work for the benefit of the most, the Receiver needs to be able to present for bid the trustee/paying agent position for all of the Sentinel Trust bond issues. If the Receiver is able to present the matter as a group, a positive bid, which would result in additional funds being placed into the Sentinel Trust estate, is a realistic possibility. However, if pre-bid packet “cherry picking” is allowed, the ability of the Receiver to secure replacement trustees/paying agents for all of the Sentinel Trust bond issues (and, thus, discharge the Receiver’s responsibility under T.C.A. § 45-2-1504(c)) is jeopardized.

As an aside, the Receiver would welcome the Bank of Oklahoma to be involved in the bidding process, and, indeed, the Bank of Oklahoma is on the list to be sent bid information. Moreover, if Chancellor’s bond issues were part of the bid packet, those bond issuers might be better served through the competitive forces of the bid process as opposed to what appears to have been a unilateral decision to replace the trustee.

Of equal, if not greater, concern is that Chancellor wants the Bank of Oklahoma to have transferred to it all the rights, remedies, causes of action, and claims which otherwise belong to Sentinel Trust. Presumably, this includes the transfer of any cause of action that might exist against any party whose actions caused the insolvency of Sentinel Trust and/or caused the fiduciary cash shortfall. If this is Chancellor’s intent, such must not be allowed because it usurps the specific authority given the Commissioner (and his appointed Receiver) under Tennessee statutory law. T.C.A. § 45-2-1502(b)(2) specifically states:

The Commissioner shall be vested with the full and exclusive power of management and control, including . . . to commence, defend and conduct in [Sentinel’s] name any action or proceeding . . .

Chancellor mentions that the various indenture trust agreements provide for the transfer of all causes of action, rights and demands to the replacement trustee. If such is the case, such would be in derogation of Tennessee statutory law and, thus, must yield to the exclusive placement of such rights with the Commissioner under T.C.A. § 45-2-1502(b)(2).

Aside from flying in the face of statutory language to the contrary, the transfer of the ability to pursue causes of action, rights and demands would rob the Sentinel Trust estate of a valuable asset. A significant and exclusive asset of the receivership estate is the right to sue and obtain judgment against those whose actions or omissions caused the insolvency of Sentinel Trust and caused the shortfall in the SunTrust Pooled Account. Recoveries from these actions would be to the benefit of all estate claimants (e.g., those who hold claim as to the shortfall in the SunTrust Pooled Account). To allow transfer of the right to sue those responsible for the insolvency of Sentinel Trust to numerous successor trustees or paying agents would foster piecemeal pursuit of third-party claims and would encourage races to courthouses. Such a situation would also hinder the orderly progression of the Sentinel Trust receivership. In short, the right to pursue claims relating to the insolvency of Sentinel Trust and/or fiduciary account shortfalls must remain exclusively with the Receiver.

Accordingly, the Receiver requests that Chancellor's motion to intervene be denied. But, if granted, the Receiver requests that such intervention be limited to this motion. Moreover, the Receiver requests that the Bank of Oklahoma not be approved, at this time, as successor trustee or registrar. But, in case the Court gives such approval, the Receiver requests that the Bank of Oklahoma not be transferred any rights, causes of action or authority which belong exclusively to the Commissioner, including, but not limited to, the right to pursue a claim against anyone or any entity for causing the insolvency of Sentinel Trust or the fiduciary cash shortfall.

Respectfully submitted,


J. Graham Matherne
Wyatt, Tarrant & Combs
2525 West End Avenue, Suite 1500
Nashville, TN 37203-1423
(615) 244-0020

Counsel for Jeanne Barnes Bryant and
Receivership Management, Inc.
Receiver of Sentinel Trust Company